

LEGAL CERTIFICATES OF HEALTH BEFORE MARRIAGE.

PERSONAL HEALTH-DECLARATION *versus* MEDICAL EXAMINATION.

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The credit of having first awakened the interest of the public, and especially of the women of Norway, in regard to the question of legal certificates of health before marriage, is due to the Women's Association of Stavanger. In 1908, this association, at the suggestion of Drs. Marte Persen, Dorothea Vik, and Wilhelmine Oppen, addressed the following proposals to the League of Norwegian Women's Clubs :

1. That the minimum age for marriage should be fixed by law, and that it should not be too low.
2. That all engagements should be announced beforehand, and that marriages should not be allowed to take place until a certain definite time had elapsed after their announcement.
3. That a medical certificate should be shown by both parties before marriage, in order, if possible, to make certain that there were no defects which might be a source of danger to the health either of husband or wife or of the prospective offspring.

The third of these proposals, in spite of its somewhat awkward form, had, at any rate, the great advantage of drawing the attention of the public to this important question. Not long after its communication to the League of Norwegian Women's Clubs, it was severely criticised by the Medical Association of Stavanger in the following protest, addressed to the League :

"The Medical Association of Stavanger feels itself compelled, for ethical no less than for medical reasons, strongly to advise the League of Norwegian Women's Clubs to reject the (third) proposal of the Women's Association of Stavanger in regard to a reform of the marriage laws, as a suggestion that

is ill-considered in its essential points and impossible in its practical application. The Medical Association will not enter now into a detailed discussion of the reasons for its unfavourable attitude, for a discussion of this nature might easily find its way into the public press, which, for obvious reasons, is not the place for it. On the other hand the Medical Association will be ready at any time to communicate its opinion, in case the League of Norwegian Women's Clubs should care to have it."

The attitude of the Stavanger Medical Association in this matter was sharply criticised in the journal of the Norwegian Medical Association by Dr. Herlofsen of Christiania, who said, among other things, that, "if there is any cause that deserves serious treatment, it is the honest endeavour to escape from the centuries-old deception that has destroyed so many marriages and gone far to bring the entire institution of marriage into discredit. Fortunately, we are far enough advanced to-day to know that it is no longer right to consider all things as they are to be satisfactory; and when one violently attacks a proposal for reform, it is, in our time at least, incumbent on one honestly to endeavour to offer a better suggestion. Otherwise one runs the risk of identifying oneself with that 'man-made morality' to which the evil conditions of the present day are mainly due."

The most enthusiastic champion of the idea of a medical examination was, however, Dr. Dedichen, the director of a private asylum near Christiania, who wrote, in 1908, in reply to the indignant question of Dr. Wyller, State Officer of Health—"what would become of woman's modesty if there were to be health declarations before marriage?"—as follows:

"In the first place, women will learn to know about themselves and the task that nature has entrusted to them; and with the full realization of this knowledge, it will be precisely the most innocent women who will look upon it as their duty to inquire of a physician in whom they have confidence, whether they are fitted for undertaking this task. . . . It is true that there are women who infect hundreds of men with venereal disease, while of diseased men it is probable that hardly one

will be found to have infected a dozen women; yet, in spite of this, the significance of venereal diseases in women, *as a hindrance to marriage*, is very small indeed. The medical examination is chiefly necessary in the case of men; and it is probable that even the most bashful of the male sex could submit to it without suffering an irrecoverable shock to his modesty. As for the much lauded 'blissful ignorance' of women, one can readily be pardoned for asking where it is to be found to-day. Fortunately, women have now no difficulty in obtaining enlightenment as to the dangers of venereal diseases; and it is certainly better for them to be instructed through lectures and by doctors, than to learn, by the painful experience of diseases of the organs of reproduction or a succession of miscarriages, of that which an affectionate husband may have been most careful to hide from them. And does not my colleague know that the physicians of Stavanger have seen precisely what the rest of us have seen, namely, that sooner or later the day comes when the husband confesses the entire truth? Nor is such a confession in the least degree better or more honourable then, than if it had been uttered before marriage. To the knowledge which the wife finally receives when it is too late to be of avail, she has an absolute right before her marriage."

As a link in the chain of social hygienic endeavour, Dr. Alfred Mjöen, even before this, had raised the question of a legal certificate of health before marriage; and in a paper read at a meeting of the Medical Association of Christiania on the 7th of April, 1907, he made the following suggestion :

"That there should be two written declarations : one from the man and one from the woman, made not more than six months before the date set for the marriage, and stating that neither suffers from any disease or weakness which could be considered either an obstacle to the marriage or a danger to the health of the other partner or of the offspring. Each of these declarations should be accompanied by a statement from the parents or guardians of the couple intending marriage, to the effect that the documents had been laid before them, and that consequently they had been given the opportunity of raising

any necessary objections or of making representations to one or both of the contracting parties. These declarations should be made before a physician appointed and paid by the State, who is bound not to accept a fee from either of the persons intending to marry."¹

On the same evening that the above paper was read, a committee was formed by the Medical Association for the purpose of discussing the question at greater length; but, unfortunately, owing to the death of its chairman, it shortly afterwards resigned.

During the next two years Dr. Mjöen delivered, on request, a number of lectures on the subject of health-declarations in the Medical Association of Christiania, in the Hall of the University, and in several towns in Norway. The idea of a personal health-declaration seemed gradually to be making headway. Also at the congress of the League of Norwegian Women's Clubs, a discussion of the above proposals took place in connexion with Dr. Martha Person's paper on medical examinations before marriage. And later, in 1911, the question was again brought up for discussion in the Medical Association of Christiania, after an introductory talk by Director Holmboe. It may be seen in the full report of this meeting, that the majority of those present were against an *obligatory medical examination*; in fact, Dr. Paul Winge and Director Malm expressed the sharpest disapproval of any reform of present conditions. On the other hand, Dr. Johan Scharffenberg laid great stress on the necessity for a movement against the purely individualistic conceptions of our time in regard to sexual relations. "People must be made to realize that human reproduction is not an individual concern but an affair of the race." . . . He hoped that "radical measures to prevent the procreation of bad race-elements and to encourage the good would soon be adopted."

Dr. Ragnar Vogt, Director of the State Asylum at Ganstad, who has given much attention to questions of social hygiene, emphasised that marriages should be forbidden only in case of absolute necessity. One should not forget that there are

¹ This final suggestion, in regard to the fee, was subsequently omitted.

other questions to be considered besides those of a purely medical nature. Dr. Holmboe, and several other of the physicians present, expressed themselves wholly in sympathy with a voluntary declaration given on one's word of honour.

It is to be seen from the above brief account of the movement that, with few exceptions, no authority of reputation is opposed to a personal legal health-declaration, although much opposition was shown to an obligatory medical examination.

The following suggested amendment to the Norwegian marriage law was subsequently drawn up by Dr. Mjöen, and will be sent in the form of a petition to the Storting of 1913.

"That [in addition to the provisions at present embodied in the marriage law] there should be a declaration by each of the two contracting parties, made at a date not exceeding six months before the marriage, as to whether either is subject to a disease or weakness which might have an injurious effect on the health of the other or of the offspring; and, further, that each declaration should be accompanied by a document signed by the parents or guardians of both parties, stating that it had been submitted to their notice and that consequently they had been given an opportunity to raise any necessary objections or to make representations to the one or the other of the couple intending marriage. The declarations should be made before a physician authorised by the State."

In support of this suggestion it was pointed out by the petitioner, "that there are diseases and tendencies to disease, as well as mental and physical defects, which experience has shown are either congenital or inherited. Children who are subject to defects of this nature, unless they die in infancy, are a source of great care to their parents and a burden to the public. If they subsequently marry, the evil is only carried further, often through generations, affecting an ever-widening circle of individuals. Consequently, in order to protect the family and the home, a movement to adopt a new form of marriage law has arisen in America, New Zealand, and in several European countries, where many authorities are inclined to favour a medical examination before marriage. The chief object of this examination is to discover whether, in either of the

contracting parties, or their families, there are diseases or tendencies to disease, such as alcoholism, tuberculosis, scrofula, insanity, criminal inclinations (as a result of defective mental development) or venereal diseases. Especially the latter, by reason both of the unpleasant consequences and dangers which result from them, no less than their excessive prevalence, are of greater significance than most other diseases.

“ The legislative adoption of a medical examination would, however, be attended by certain disadvantages which are of such a nature as to render inadvisable the introduction of an *obligatory* medical examination before marriage. The disease from which society would especially endeavour to protect itself through such legislation, namely, syphilis, frequently cannot be detected in its latent state, even by the most observant and skilled physician; and it would also seem to be a mistake to introduce the obligatory medical examination of young women at a time when the examination of prostitutes for venereal disease is almost everywhere being allowed to fall into disuse. To my mind, an obligatory medical examination should not be suggested until bio-chemical methods of research have been so improved, that the presence or absence of such diseases as must be considered in relation to marriage can be ascertained without the necessity of a physical examination. In doubtful cases—and there are many such—the medical certificate would, nevertheless, have to be issued; and it would certainly have an effect contrary to its purpose and bring both the law and the physician into discredit. And if obligatory medical examinations became statutory (especially in case they were to lead to the prohibition of the union of those considered unfit to marry) they would bring the physician into conflict with his duty of professional secrecy, and easily drive the patient into illegitimate sexual relations.

“ On the other hand, a personal health-declaration, such as is described above, made on one's honour before a physician authorised by the State, would have the great advantage of being actually of greater validity than the obligatory certificate on the basis of a medical examination and much less rigorous in form. False declarations would hardly ever be made; or, at

the worst, their number would be exceedingly small. The circumstance that the declaration must be made before a physician would also tend to deter many who might otherwise be tempted to make a false statement in the hope of being able to shift the responsibility to the ' medical certificate ' and to the examining physician himself.

Among the many advantages that would result from such health-declarations made before a physician and submitted to parents or guardians for their consideration may be included the awakening of the sense of individual moral responsibility and the national conscience in regard to marriage and the health of the race; for no one of either sex could marry without first having to ask himself the question, whether or not he is physically fitted for marriage. The result would be that a large number of defective individuals, especially such as those whose offspring are now supported by the community, would renounce the idea of founding a family. The burdens borne by the public in the form of Poor Law rates, prosecutions, prisons, inebriate homes, schools for the feeble-minded, and the like, would be lightened, and there would be a not inconsiderable improvement in the genetic qualities of the race, bringing with it health and strength and more national happiness, without any interference whatever with personal freedom. There would be a direct stimulus to the promotion of good health, and encouragement to keep one's body clean and inviolable; and the authorities would be given an admirable opportunity for watching over the physical welfare of the nation, especially during the youth of its inhabitants. In other words, a legal health-declaration before marriage would be the first step towards a practical system of " national hygiene."